

MINUTES

March 16, 2004

The State Board of Registration for Professional Engineers and Land Surveyors met on March 16, 2004 in Conference Room 102 at the office of the Professional Licensing Boards, 237 Coliseum Drive, Macon, Georgia 31217.

BOARD MEMBERS PRESENT:

William W. Dean, PE - Chairman
John H. Sweitzer, PE
Doris I. Willmer, PE
Richard K. Little, PE
E. Charles Vickery, PE
Guy F. Ritter, PE
Theodore W. Waddle, LS, PE
Mark E. Chastain, LS
Gloria B. Ransom, Ph.D., Public Member

BOARD MEMBERS ABSENT:

none

STAFF PRESENT:

J. Darren Mickler – Board Executive Director
Julie Busbee – Board Secretary
Vivian Stephens – Board Application Specialist
Ajay Gohil – Attorney General Representative

OTHERS PRESENT:

Tom Hurley, LS, Surveying and Mapping Society of Georgia
Major Thompson, PE, American Society of Civil Engineers
James Paul, Jr., LSIT

Call to order:

Chairman Dean called the meeting to order at 9:30 am and presented a proposed agenda. Mr. Sweitzer requested to add one item, Temporary Permits. Mr. Little moved to adopt the amended agenda. Mr. Waddle seconded. Motion carried.

Approval of Minutes:

Mr. Dean asked for any additions or deletions to the minutes of the January 27, 2004 Board Meeting. There being no changes, Mr. Sweitzer moved to adopt the minutes as written. Mr. Little seconded. Motion carried.

Mr. Dean asked for any additions or deletions to the minutes of the February 3, 2004 Work Session minutes. With minor changes, Ms. Willmer moved to adopt the minutes as amended. Dr. Ransom seconded. Motion carried.

Professional Societies and Guests

Chairman Dean recognized the guests and members of the professional societies present.

Executive Director's Report

- Mr. Mickler reported that the Board staff was able to notify all exam applicants before the NCEES deadline of March 1, 2004.
- Mr. Mickler reported that he has met with Mr. Chastain and Mr. Ritter regarding the complaint cases, and they are making progress on some of the older cases. Mr. Chastain commented that because of budget restraints he would like to pursue the use of volunteer peer reviewers to help with land surveyor complaint cases.

Old Business:

Sealing of Documents – Board Rule 180-12-.02:

Mr. Little presented a proposed draft of Board Rule 180-12-.02, Sealing of Documents. Mr. Ritter moved to post the draft as presented. Mr. Vickery seconded. After discussion specifically regarding preliminary drawings, Mr. Waddle moved to postpone this item. Mr. Chastain seconded. Motion to postpone carried.

Evaluation of Foreign Education:

Mr. Ritter presented a proposed draft of Board Rule 180-3-.04, Evaluation of Foreign Education and a proposed Board policy regarding reviewing of applications of persons who obtained their education outside the United States.

The Board Rule proposed by Mr. Ritter will replace the current Rule 180-3-.04 and is as follows:

180-3-.04. Evaluation of Foreign Education.

- (1) Any applicant desiring educational credit for an engineering degree from a foreign institution must submit an evaluation of such education to the Board. Such evaluation must be in the form prescribed by the Board and must be performed by an agency approved by the Board.
- (2) Approved Special Evaluation Forms and Instructions may be obtained from Engineering Credentials Evaluation International (ECEI) at their website www.ecei.org.

- (3) Advanced Post-Graduate Degrees to be acceptable for educational credit must be in the same branch of engineering and current experience in which the applicant plans to practice in the state of Georgia and be from a school or college whose undergraduate curriculum is ABET accredited in the applicant's discipline at the time of the applicant's study.

The Board Policy proposed by Mr. Ritter is as follows:

Eligible applicants with foreign education will be reviewed under 43-15-8 and 43-15-9 as follows:

- 43-15-8(1) or 43-15-9(1):
 - Favorable ECEI Evaluation plus approved Advanced Post-Graduate Degree.
- 43-15-8(2) or 43-15-9(2):
 - Favorable ECEI Evaluation; or,
 - Unfavorable ECEI Evaluation plus approved Advanced Post-Graduate Degree.
- 43-15-8(3) or 43-15-9(3):
 - Unfavorable ECEI Evaluation; or
 - No ECEI Evaluation.
 - The Board, under 43-15-10 Evaluation of Engineering Experience may grant partial experience credit for successful completion of one or more years of an engineering curriculum.

Mr. Sweitzer moved to post Board Rule 180-3-.04 and adopt the Policy as outlined. Mr. Ritter seconded. Motion carried.

Mr. Vickery moved that the formulation and adoption of Board Rule 180-3-.04 does not impose excessive regulatory cost on any licensee and any cost to comply with the proposed rule cannot be reduced by a less expensive alternative that fully accomplishes the objectives of O.C.G.A. §§ 43-15-4(a) (Adoption of rules and regulations), O.C.G.A. § 43-15-6(a) (General Powers of the Board), O.C.G.A. § 43-15-8 (Engineer-in-training certificate; eligibility), O.C.G.A. § 43-15-9 (Professional engineer certificate of registration; eligibility), O.C.G.A. § 43-15-10 (Evaluation of engineering experience), O.C.G.A. § 43-15-11 (Professional Engineers exam), and O.C.G.A. § 43-15-15 (Applications for certificates) to adopt or implement differing actions for businesses as listed in O.C.G.A. § 50-13-4(a)(3)(A), (B), (C) and (D). The formulation and adoption of these rules will impact every licensee in the same manner and each licensee is independently licensed in the fields of engineering and land surveying. Mr. Ritter seconded. Motion carried.

Policy for Holding Applications Due to On-Going Investigation:

This item was deferred to the May 4, 2004 meeting.

Penalty Schedule:

Mr. Ritter presented a proposal of evaluation complaints and penalty schedule guidelines for Professional Engineers, as follows:

43-1-19A Grounds for Refusing License, Revoking License, or Discipline Licenses:

1. Failure to demonstrate qualifications or standards for a license;
2. Making misleading, deceptive, untrue, or fraudulent representations;
3. Conviction of a felony or crime of moral turpitude;
4. Arrested, charged and sentenced where:
 - a. First Offender treatment was granted, or
 - b. Adjudication of guilt or sentence withheld or not entered on the charge;
5. License revoked, suspended, or annulled;
6. Unprofessional, immoral, unethical, deceptive, deleterious conduct;
7. Assisting unlicensed practice by licensee with suspended or revoked license; or, practice outside the scope of any disciplinary limitation placed upon the licensee;
8. Violation of a statute, law, rule, or regulation of the Board or other lawful authority; or, lawful order of the Board;
9. Adjudged mentally incompetent; or
10. Inability to practice with reasonable skill and safety to the Public.

43-1-19D Possible Disciplinary Actions by the Board:

The Board may:

1. Refuse to grant or renew License;
2. Issue a Public or Private Reprimand;
3. Suspend License;
4. Limit or restrict License;
5. Revoke License;
6. Condition the Penalty; or
7. Fine not to exceed \$500 per Violation.

43-1-19E Board may also:

1. Withhold imposition of judgment and penalty; or
2. Impose judgment and penalty but suspend enforcement and place on probation.

43-1-19L Voluntary Surrender of License:

Voluntary Surrender of a license or Failure to Renew License at the end of a penalty period shall have the same effect as Revocation of License, subject to reinstatement in the discretion of the Board.

43-1-20 Action to Enjoin Unlicensed Practice; and 43-1-20.1 Cease and Desist Order:

1. Issue Cease and Desist Order for Unlicensed Practice; and
2. Violation of Board Order: Penalty not to exceed \$500 for each transaction constituting a violation. Each day of practice in violation shall constitute a separate violation.

43-15-26 Cease and Desist Order, plus Civil Penalty for Violation of 43-15-7 Unlawful Practice of Engineering:

1. Fine not less than \$100 nor more than \$5000 per violation; and
2. Violation of Board Order: Additional penalty of \$100 for each transaction.

Proposed policy for Disciplinary Actions for Professional Engineers:

43-1-24 Licensed Professionals Subject to Regulation by State Licensing Board.

VIOLATION: Disciplinary Action + Fine (NTE \$500/Violation) + Penalty (Suspension/Probation)

Violation:	Minimum:	Maximum:
Firm: No COA	Reprimand+\$500	Reprimand+\$1000
Failure: Date Plans Preserve Confidence	Reprimand Reprimand+\$500	Reprimand+\$500 + 1YrProbation Reprimand+\$1000 + 1YrProbation
False: Advertising Reporting	Reprimand+\$500 Reprimand+\$500+1YrProbation	Reprimand+\$1000+1YrProbation Revocation+\$5000
Conflict of Interest	Reprimand+\$500_1YrProbation	Revocation+\$5000
Discipline by Other State	Reprimand	Same Penalty as Other State
Judgment Overruled	Reprimand	Reprimand+\$5000+1YrSuspension
Plan Stamping	Reprimand+\$500+1YrProbation	Reprimand+\$5000+1YrSuspension
Incompetence: Standard Care Negligence Mental	Reprimand+\$500+1YrProbation Reprimand+\$500+2YrProbation Suspension until Ability to Practice Proved; then 2YrProbation	Reprimand+\$5000+1YrSuspension Revocation+\$5000
Practice: Inactive License Revoked License	Reprimand +\$500+Renew Criminal Prosecution – Attorney General	Reprimand+\$5000+C&D
Violation: Provisional Board Order Consent Order	Reprimand+\$500+2YrProbation Suspension and \$500 fine Fine \$500 to \$5000+Additional Penalty of \$100 Each Transaction	Reprimand+\$5000+2YrProbation Revocation and \$5000 Fine
Fraudulent Firm Venture	Reprimand+\$500_1YrProbation	Reprimand+\$5000+1YrSuspension
Solicit/Accept Gratuity	Reprimand+\$500+1YrProbation	Reprimand+\$5000+1YrSuspension
Bribery/Fraud	Reprimand+\$5000 (Licensed) and/or Criminal Prosecution – AG	
Criminal Conviction: PE	Misdemeanor: Reprimand+\$500 Felony: Revocation+\$5000	Reprimand+\$5000+2YrProbation

REPRIMAND:	Private or Public
FINE:	\$100-\$500 per Violation; \$5000 max.
PENALTY:	Probation and/or Suspension
CEASE & DESIST:	Board Order

Mr. Ritter moved to adopt this as a Board guideline. Ms. Willmer seconded. Motion carried. Mr. Chastain will draft a similar policy for Land Surveyors and will report at the May 4, 2004 Board meeting.

Complaint Statistics:

Ms. Busbee reported that the Board currently has a total of 108 open complaint cases, with 5 being in the Attorney General's office, 31 in Investigations, 14 in Legal Services, and 58 in Board review.

Department of Community Affairs Meeting on February 3, 2004:

Chairman Dean led a general discussion of the February 3, 2004 meeting with the Department of Community Affairs (DCA) and Georgia Association of Residential Engineers (GARE). Ms. Willmer reported that there were questions about when an engineer needs to review plans. The Board suggested to GARE and DCA to file a complaint whenever they believe a violation has occurred and the Board would consider on a case-by-case basis. No other action was taken.

Four Exam Offerings:

Mr. Mickler reported that he is still working on a proposed rule change to coincide with the NCEES Model Law. He will bring his proposal to the May 4 meeting.

Task Force – Mission Statement:

Ms. Willmer reported that the Board's Task Force met on Tuesday, March 9, 2004 and discussed the following points:

- Discussion of Task Force Purpose: "How the Board can enhance its service to the public."
 - a. Enforcement of the current law
 - b. Education of registrants and the public about the Board and its procedures
 - c. Establishment of performance measurement systems
 - d. Other
- Future 2004 Meeting Dates:
 - a. April 20

- b. June 1
- c. July 13
- d. September 14
- e. October 12
- f. Final Report to PELS Board by October 31, 2004

Ms. Willmer stated that she would give a summary report of each Task Force meeting at each Board meeting.

Education Direct Land Surveyor Courses:

Mr. Chastain reported that he had sent a letter to Bill Politis, the representative from Education Direct, expressing concern that they pass students overall, when the students actually make failing marks in the land surveying courses and do well in the math classes. He proposed that 70 must be the minimum passing score of all land surveying coursework to be acceptable to the Board. Mr. Ritter moved to accept. Dr. Ransom seconded. Motion carried.

2004 Southern Zone NCEES Meeting – Asheville, NC:

Mr. Dean expressed deep concern that the Board staff may not be allowed to attend the 2004 Southern Zone Meeting in Asheville, North Carolina on May 13 – 15, 2004, due to budget restrictions on out of state travel. He strongly suggested that the Board staff should be allowed to attend to be knowledgeable of what duties they will have when the Georgia-hosted Southern Zone Meeting is held in Savannah, Georgia in 2006. Mr. Dean offered to write a letter on behalf of the Board to Secretary of State Cathy Cox with a courtesy copy to Mollie Fleeman, Division Director, requesting budget funds to send Darren Mickler, Executive Director, Julie Busbee, Board Secretary, and Vivian Stephens, Applications Specialist, to the 2004 Southern Zone Meeting in Asheville, North Carolina.

2006 Southern Zone Meeting – Savannah, GA:

Mr. Mickler had no report this meeting.

New Business:

Reinstatement Application Fee Policy:

Mr. Mickler presented a proposed Board Policy for fees involving Reinstatement Application. The current reinstatement fee is \$1000 due with application, non-refundable.

Proposed policy:

Reinstatement application processing fee to be \$100 due with application, non-refundable. Reinstatement fee, only if reinstatement is granted to be \$1000 due before reinstatement is finalized.

Mr. Ritter moved to accept as Board Policy effective immediately. Dr. Ransom seconded. Motion carried.

Professional Engineers Stamping Preliminary Subdivision Plats:

Ms. Willmer and Mr. Chastain led a discussion regarding whether Professional Engineers are permitted to stamp preliminary subdivision plats, citing O.C.G.A. § 43-15-6.a. as reference. No action was taken.

Request for Inactive Status – Manjanath Gokare:

Mr. Mickler presented a letter from Mr. Manjanath Gokare who is an active professional engineer, requesting a waiver of the age/years of service requirements because he does not otherwise meet the criteria. Mr. Little moved to deny a waiver for Mr. Gokare. Dr. Ransom seconded. Motion carried.

Out of State Applicants for Exam:

Mr. Dean led a discussion regarding out of state applicants for exam who request to proctor the exam in their state once they are accepted to sit. Mr. Dean proposed that applicants should not be allowed to proctor in another state for their first sitting. Mr. Sweitzer moved to accept. Dr. Ransom seconded. Motion carried. Mr. Ritter proposed to not allow out of state applicants to apply, with the exception of those active in the military. Mr. Gohil will research this possibility and report back at the May 4, 2004 Board meeting.

Temporary Permits:

Mr. Sweitzer moved that the Board immediately stop issuing temporary permits due to extra work for staff, many temporary applications do not get reviewed until the entire application is reviewed, and because of apparent abuse of temporary permit process. Mr. Ritter seconded. Motion carried.

Executive Session:

At 12:35 pm, Dr. Ransom moved to enter into Executive Session to deliberate on applications and enforcement matters and to receive information on applications and investigative reports. Mr. Little seconded. Motion carried.

The following Board members were present during Executive Session – Chairman Dean, Mr. Sweitzer, Mr. Vickery, Mr. Waddle, Ms. Willmer, Mr. Chastain, Dr. Ransom, Mr. Ritter and Mr. Little.

Reconvened Open Session at 4:40 PM with the following Board members present - Chairman Dean, Mr. Sweitzer, Mr. Vickery, Mr. Chastain, Ms. Willmer, Mr. Ritter, Dr. Ransom, Mr. Waddle, Mr. Little:

Investigations and Complaints:

Mr. Ritter moved to accept a signed Consent Order from Hayes James & Associates, Inc. with a fine of \$1000 and Public Reprimand from for failure to have a resident land surveyor at a branch office. Ms. Willmer seconded. Motion carried.

PELS999900039 – This case involved a Professional Engineer with allegations of substandard practice in the design of trusses for a church. Mr. Waddle moved to close the case with no violations found, and refer the case to the Architects Board because of possible violations by the Architect involved. Dr. Ransom seconded. Motion carried.

PELS020148 – This case involved a Land Surveyor with allegations of assisting unlicensed practice. Mr. Little moved to close the case administratively because the respondent has died. Mr. Waddle seconded. Motion carried.

PELS020149 – This case involved unlicensed practice of land surveying. Mr. Waddle moved to issue a Cease and Desist Order with a \$28,000 fine. Mr. Vickery seconded. Motion carried.

PELS030016 – This case involved unlicensed practice of land surveying by an unlicensed county surveyor. Mr. Little moved to issue a Cease and Desist Order with a \$25,000 fine. Dr. Ransom seconded. Motion carried.

PELS030017 – This case involved a Professional Engineer “plan-stamping” for a company without a certificate of authorization. Ms. Willmer moved to issue a Cease and Desist for the company with a fine of \$500, and a Consent Order with Public Reprimand, \$500 fine and one year of probation for the registrant. Mr. Waddle seconded. Motion carried.

PELS040015 – This case involved an unlicensed person falsely claiming on his resume that he is an Engineer-In-Training in the state of Georgia. Mr. Sweitzer moved to issue a Cease and Desist Order with a fine of \$500. Mr. Little seconded. Motion carried.

PELS040048 – This case involved a Georgia licensed professional engineering firm which was sanctioned in North Carolina for offering services in that state without a Certificate of Authorization. Mr. Little moved to send a letter of concern, recommending the company to comply with laws of other states and Board staff to send a courtesy copy to the North Carolina Board. Dr. Ransom seconded. Motion carried.

PELS040034 – This case involved a Professional Engineer “plan-stamping” and assisting unlicensed practice. Ms. Willmer moved to issue a Consent Order with Public Reprimand, \$500 fine and one year of probation. Mr. Waddle seconded. Motion carried.

PELS040038 - This case involved a Professional Engineer who made false statements on his application. Mr. Little moved to revoke the license, impose a fine of \$2000 and send a letter to his immediate supervisor, to the Virginia Board of Professional Engineers and to the Pennsylvania Board of Professional Engineers advising of the Georgia Board action. Mr. Waddle seconded. Motion carried.

PELS030012 – This case involved unlicensed practice of land surveying by an unlicensed county surveyor. Mr. Waddle moved to issue a Cease and Desist Order with \$1000 fine. Mr. Vickery seconded. Motion carried.

PELS999900066 & PELS999900086 – These companion cases involved a Land Surveyor with a felony conviction of drug trafficking and allegations of substandard practice. Mr. Ritter moved to revoke the land surveying license. Mr. Little seconded. Motion carried.

PELS01100011, PELS01100120 & PELS01100121- These companion cases involved a firm and two unlicensed individuals with allegations of unlicensed practice of land surveying. Mr. Ritter moved to close the cases with no violations found. Mr. Little seconded. Motion carried.

PELS030014 – This case involved unlicensed practice of land surveying. Mr. Ritter moved to issue a Cease and Desist Order with a \$500 fine. Dr. Ransom seconded. Motion carried.

PELS020145 – This case involved a Land Surveyor with violations of the Plat Act and Board Rules. Mr. Waddle moved to issue a Voluntary Surrender of the land surveying license with a fine of \$2500. Dr. Ransom seconded. Motion carried.

PELS989900059 – This case involved a Land Surveyor with violations of the Plat Act and assisting unlicensed practice. Mr. Little moved to revoke with a fine of \$3500, and to suspend the Certificate of Authorization for the land surveying firm for which this licensee is in responsible charge. Mr. Ritter seconded. Motion carried.

PELS040037 – This case involved a Land Surveyor with violations of Board Rule 180-6-.06(1), Rules of Professional Conduct. Dr. Ransom moved to issue a Consent Order with Public Reprimand, \$500 penalty and pay \$300 restitution to complainant. Mr. Little seconded. Motion carried.

Reinstatements:

Mr. Sweitzer moved to deny the reinstatement application of David W. Lynah, LS001845 and refund his \$1000 application fee. Dr. Ransom seconded. Motion carried.

Mr. Little moved to approve the reinstatement application of Wayne B. Dukes, LS001723 with a Consent Order, including a penalty of \$1100. Dr. Ransom seconded. Motion carried.

Mr. Ritter moved to approve the reinstatement application of Lee W. Abramson, PE013117. Dr. Ransom seconded. Motion carried.

Mr. Vickery moved to approve the reinstatement application of Mark D. Disosway III, PE017848. Mr. Waddle seconded. Motion carried.

Mr. Ritter moved to approve the reinstatement application of Roger Lee Moore, PE013330. Mr. Little seconded. Motion carried.

Board Memo Comity Model Law Applicants:

Applicants for registration as Professional Engineers by comity, who have an ABET engineering degree, who have taken and passed an 8-hour fundamentals of engineering (EIT/FE) exam, who have a minimum of 48 months post graduation engineering experience as determined by a staff evaluation using the present Board guidelines, who have taken and passed an 8-hour principles and practice of engineering exam (PE Exam-taken at least 4 years after BS degree), and who comply in every way with the provisions of the appropriate law(s), are as follows:

29356 Brecher, Mark L.	29357 McFarland, Sean M.	29362 Brice, Mary T.
29363 Cannon, Randy R.	29364 Pontz, Mark A.	29365 Poole III, John W.
29366 Powers, Michael K.	29367 Ryer, Michael P.	29368 Seaverson, Jason M.
29380 Akers, Sterling D.	29381 Backes, James M. Jr.	29382 Bianchi, Jess C.
29383 Bivens, Jonathan A.	29384 Brengman, Mark A.	29385 Bryant, Timothy L.
29386 Chapman, Glenn W.	29387 McMullen, Paul R.	29388 Rivers, Patrick M.
29389 Ticknor, Kirk W.	29390 Youngs, Steven M.	

Mr. Little moved to approve these applicants for PE registration by comity @ 43-15-16(a), via 43-15-8(1) and 43-15-9(1). Dr. Ransom seconded. Motion carried.

Applications for Regular Applicants seeking certification as an Engineer-in-Training by Exam

Applicants for certification as an Engineers-in-Training by examination whose degrees were earned in engineering or engineering technology programs which attained ABET/CAB accreditation within two years of their having received their degrees, who have filed with the Board five acceptable references, who have had no convictions for moral turpitude or substantive reasons, and who comply in every way with the provisions of the appropriate law(s), are as follows:

Conner, Spencer B.

Dr. Ransom moved to approve this applicant for EIT certification @ 43-15-8(1) or 43-15-8(2). Mr. Little seconded. The motion carried.

Applications for Enrolled Senior Applicants seeking certification as an Engineer-in-Training by Exam

Applicants for certification as an Engineers-in-Training by examination who are currently enrolled as seniors in ABET approved programs in schools, colleges or universities in Georgia, who have filed with the Board five acceptable references, who have had no convictions for moral turpitude or other substantive reasons, and in every way comply with the provisions of the appropriate law(s) are as follows:

GEORGIA INSTITUTE OF TECHNOLOGY

Christian, Thomas Justin
Mitchell, Natalie Kaye

Frederick, Trisha Dianne
Rainisch, Uri

Kulka, Kimberly Ann
Von Reyn, Catherine Rosanne

GEORGIA SOUTHERN UNIVERSITY

Jenkins, Nicholas Hampton

Tyson, Brock McLendon

MERCER UNIVERSITY

Fifadara, Kalpesh H.

SOUTHERN POLYTECHNIC STATE UNIVERSITY

Dave, Jayendra S.

Wayne, Corey James

SAVANNAH STATE UNIVERSITY

Turenne, Jill

ACTION OF THE BOARD: Mr. Little moved to approve these applicants for EIT certification @ 43-15-8(1) or 43-15-8(2). Dr. Ransom seconded. The motion carried.

There being no further business before the Board, Chairman Dean asked for a motion to adjourn. Mr. Little so moved. Dr. Ransom seconded. Motion carried and the meeting was adjourned at 5:00 pm. Board members remained after the meeting to complete reviews of applications until they were finished.

Board Chairman

Division Director

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